

To:  
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PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing  
(day/month/year)

04 JUN 2008

Applicant's or agent's file reference

020294WO

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US05/05908

International filing date (day/month/year)

25 February 2005 (25.02.2005)

Priority date (day/month/year)

01 March 2004 (01.03.2004)

International Patent Classification (IPC) or both national classification and IPC

IPC: G06F 15/177(2006.01)

USPC: 709/220

Applicant

QUALCOMM INCORPORATED

## 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

## 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

## 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
Facsimile No. (571) 273-3201

Date of completion of this opinion

29 May 2008 (29.05.2008)

Authorized officer

John Follansbee

Telephone No. 8662179197

**Box No. 1 Basis of this opinion**

1. With regard to the **language**, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. **type of material**

- ☐ a sequence listing
- ☐ table(s) related to the sequence listing

b. **format of material**

- ☐ on paper
- ☐ in electronic form

c. **time of filing/furnishing**

- ☐ contained in the international application as filed.
- ☐ filed together with the international application in electronic form.
- ☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**I. Statement**

Novelty (N)

Claims NONE YES

Claims 1-21 NO

Inventive step (IS)

Claims NONE YES

Claims 1-21 NO

Industrial applicability (IA)

Claims 1-21 YES

Claims NONE NO

**2. Citations and explanations:**

Please See Continuation Sheet

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

V. 2. Citations and Explanations:

Claims 1-21 lacks novelty under PCT Article 33(2) as being anticipated by Ishii et al. U.S. Patent # 6,594,505 (hereinafter Ishii).

As per claim 1, Ishii teaches a computer device having wireless communication capability (Fig. 1 element "A"), comprising: a wireless communication portal for selectively sending and receiving data across a wireless network (column 4 lines 1-16); a computer platform including a resident application environment and selectively downloading applications to the platform through the portal, the resident application environment utilizing a predefined security protocol for at least downloading an application (column 5 lines 1-10); a data store in communication with the computer platform and selectively sending data to and receiving data from the computer platform (column 5 lines 1-10); and a download manager resident on the computer platform that at least selectively downloads applications that do not comply with the predefined security protocol (column 5 lines 1-20).

As per claim 2, Ishii teaches the device of claim 1, wherein the download manager exists within resident application environment and uses an existing application download interface (column 5 lines 1-10).

As per claim 3, Ishii teaches the device of claim 1, wherein the downloaded application is immediately executed (column 5 lines 24-39).

**Supplemental Box**

In case the space in any of the preceding boxes is not sufficient.

As per claim 4, Ishii teaches the device of claim 1, wherein a downloaded application that does not comply with the predefined security protocol is stored, and the stored application is executed through the download manager (column 6 lines 7-21).

As per claim 5, Ishii teaches the device of claim 1, wherein the download manager further manages executing the downloaded application that does not comply with the predefined security protocol (column 5 lines 1-10).

As per claim 6, Ishii teaches the device of claim 4, wherein the download manager further manages storage of the downloaded application that does not comply with the predefined security protocol in the data store (column 5 lines 1-10).

As per claim 7, Ishii teaches the device of claim 1, wherein the predefined security protocol is verifying the origination of the application (column 4 lines 50-67).

As per claim 8, Ishii teaches the device of claim 1, wherein the predefined security protocol is verifying the presence of a certificate within the downloaded application (column 6 lines 6-31).

As per claim 9, Ishii teaches the device of claim 5, wherein the download manager executes the downloaded application that does not comply with the predefined security protocol outside of the resident application environment (column 5 lines 11-30).

As per claim 10, Ishii teaches a computer device having wireless communication capability, comprising: a wireless communication means for selectively sending and receiving data across a wireless network (column 4 lines 1-16); a computer means selectively downloading applications through the wireless communication means, the computer means utilizing a predefined security protocol for at least downloading an application (column 5 lines 1-10); and a means for selectively downloading applications that do not comply with the predefined security protocol (column 5 lines 1-10).

As per claim 11, Ishii teaches a method of selectively downloading through a wireless connection to a computer device an application that does not comply with a predefined security protocol for use at that computer device, comprising the steps of: downloading to a computer platform of the computer device an application that does not comply with a predefined security protocol for use at that computer device, the computer platform including a resident application environment for downloading and executing applications utilizing a predefined security protocol for at least downloading an application, the downloading of the non-complying application occurring through the use of a download manager resident on the computer platform (column 5 lines 1-30); and executing the application at the computer device with the download manager (column 5 lines 1-30)(column 6 lines 6-31)

As per claim 12, Ishii teaches the method of claim 11, wherein the download manager exists within resident application environment and the step of downloading uses an existing application download interface (column 5 lines 1-30).

As per claim 13, Ishii teaches the method of claim 11, further comprising the steps of: storing, with the download manager, the downloaded application that does not comply

**Supplemental Box**

In case the space in any of the preceding boxes is not sufficient.

with the predefined security protocol; and executing the stored application through the download manager (column 5 lines 1-30).

As per claim 14, Ishii teaches the method of claim 11, further comprising the step of verifying the nature of the downloaded application as the predefined security protocol (column 5 lines 1-10).

As per claim 15, Ishii teaches the method of claim 14, wherein the step of verifying the nature of the downloaded application is verifying the presence of a certificate within the downloaded application (column 6 lines 6-31).

As per claim 16, Ishii teaches the method of claim 11, wherein the step of executing the downloaded application with the download manager occurs outside of the resident application environment (column 5 lines 1-30).

As per claim 17, Ishii teaches the method of claim 11, further comprising the step of downloading the download manager to the computer platform of the computer device after a request to download an application that does not comply with a predefined security protocol has been made, and prior to the step of downloading the requested application (column 6 lines 6-31).

As per claim 18, Ishii teaches a method of selectively downloading through a wireless connection to a computer device an application that does not comply with a predefined security protocol for use at that computer device, comprising the steps of: a step for downloading to a computer platform of the computer device an application that does not comply with a predefined security protocol for use within a resident application environment at that computer device; and a step for executing the downloaded application at the computer device outside of the resident application environment (column 4 lines 1-16)(column 5 lines 1-30)(column 6 lines 6-31).

As per claim 19, Ishii teaches in a computer-readable medium, a program that when executed by a wireless computer device causes the device to perform the steps of: downloading through a wireless connection to a computer platform of the computer device an application that does not comply with a predefined security protocol for use at that computer device, the computer platform including a resident application environment for downloading and executing applications utilizing a predefined security protocol for at least downloading an application, the downloading occurring through the use of a download manager on the computer platform; and executing the application at the computer device with the download manager (column 4 lines 1-16)(column 5 lines 1-30)(column 6 lines 6-31)..

As per claim 20, Ishii teaches the program of claim 19, wherein the download manager is resident on the computer platform (column 5 lines 1-30).

As per claim 21, Ishii teaches the program of claim 19, wherein the download manager is loaded to the computer platform after a request to download of an application that does not comply with a predefined security protocol and prior to download thereof (column 6 lines 6-31).

## NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under Article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the *PCT Applicant's Guide*, a publication of WIPO.

In these Notes, "Article," "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

### INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report and the written opinion of the International Searching Authority, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only (see *PCT Applicant's Guide*, Volume I/A, Annexes B1 and B2).

The attention of the applicant is drawn to the fact that amendments to the claims under Article 19 are not allowed where the International Searching Authority has declared, under Article 17(2), that no international search report would be established (see *PCT Applicant's Guide*, Volume I/A, paragraph 296).

#### What parts of the international application may be amended ?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Preliminary Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

**When ?** Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

#### Where not to file the amendments ?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

**How ?** Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Section 205(b)).

**The amendments must be made in the language in which the international application is to be published.**

#### What documents must/may accompany the amendments ?

##### **Letter (Section 205(b)):**

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

**The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.**

## NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

- 1 [Where originally there were 48 claims and after amendment of some claims there are 51]:  
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers, claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
  - 2 [Where originally there were 15 claims and after amendment of all claims there are 11]:  
"Claims 1 to 15 replaced by amended claims 1 to 11."
  - 3 [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:  
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or  
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
  - 4 [Where various kinds of amendments are made]:  
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."
- "Statement under Article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)). The statement will be published with the international application and the amended claims.

**It must be in the language in which the international application is to be published.**

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

### Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IPEA/401).

If a demand for international preliminary examination is made, the written opinion of the International Searching Authority will, except in certain cases where the International Preliminary Examining Authority did not act as International Searching Authority and where it has notified the International Bureau under Rule 66.1bis(b), be considered to be a written opinion of the International Preliminary Examining Authority. If a demand is made, the applicant may submit to the International Preliminary Examining Authority a reply to the written opinion together, where appropriate, with amendments before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later (Rule 43bis.1(c)).

### Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see the *PCT Applicant's Guide*, Volume II.